

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Michael Benson,
and others similarly situated,

File No. 22-cv-1601 (ECT/TNL)

Plaintiff,

v.

**ORDER ACCEPTING REPORT
AND RECOMMENDATION**

Jodi Harpstead,
*Commissioner of the Department of Human
Services, Sued in Official Capacity,*

Defendant.

Michael Benson,

File No. 22-cv-2017 (ECT/TNL)

Petitioner,

v.

Jodi Harpstead, *Commissioner,*

Respondent.

Two cases are before the Court on a Report and Recommendation issued by Magistrate Judge Tony N. Leung. File No. 22-cv-1601, ECF No. 22; File No. 22-cv-2017, ECF No. 13 (“R&R”). The Report and Recommendation addresses both Plaintiff Michael Benson’s 42 U.S.C. § 1983 claim—wherein he asserts violations of his due process rights under the Fourteenth Amendment—in File No. 22-cv-1601, and his petition for a writ of habeas corpus in File No. 22-cv-2017. Magistrate Judge Leung recommends dismissing Benson’s due process claims with prejudice as they are barred by the doctrine of claim

preclusion, and dismissing Benson's habeas corpus petition without prejudice for lack of subject-matter jurisdiction. R&R at 26.

Benson filed objections to the Report and Recommendation. File No. 22-cv-1601, ECF No. 26; File No. 22-cv-2017, ECF No. 17. Respondent filed responses to Benson's objections, confirming Respondent's view that the dismissal should be affirmed. File No. 22-cv-1601, ECF No. 27 at 3; File No. 22-cv-2017, ECF No. 18 at 4. Because Benson has objected in both cases, the Court is required to review the Report and Recommendation de novo pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b)(3). The Court has undertaken that de novo review and has concluded that Magistrate Judge Leung's analysis and conclusions are correct.

Therefore, based on all the files, records, and proceedings in the above-captioned matters, **IT IS ORDERED THAT:**

1. The Objections to the Report and Recommendation [File No. 22-cv-1601, ECF No. 26; File No. 22-cv-2017, ECF No. 17] are **OVERRULED**;
2. The Report and Recommendation [File No. 22-cv-1601, ECF No. 22; File No. 22-cv-2017, ECF No. 13] is **ACCEPTED** in full;
3. Commissioner Harpstead's Motion to Dismiss Plaintiff's Complaint [File No. 22-cv-1601, ECF No. 12] is **GRANTED**;
4. The action in File No. 22-cv-1601 is **DISMISSED WITH PREJUDICE**;

5. The action in File No. 22-cv-2017 is **DISMISSED WITHOUT PREJUDICE** for lack of subject-matter jurisdiction.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: August 2, 2023

s/ Eric C. Tostrud

Eric C. Tostrud

United States District Court